

\*\*\*\*\* MEMORANDUM OF LAW \*\*\*\*\*

CLASSES OF CITIZENSHIP

[1.] The Constitution for the [u]nited States of America recognizes several classes of people who exist in this Union of States, as described in Article I., Section 2, Clause 3.

[2.] This Court is herewith mandated to take judicial notice of the Constitution for the [u]nited States of America, the Constitution of the California Republic, the Statutes at Large of the [u]nited States of America, and all case law presented herein, pursuant to the Federal Rules of Evidence, Section 201, et seq., and Article IV, Section 1 of the Constitution for the [u]nited States of America (1787).

[3.] Excluding "Indians not taxed", since they are not under consideration in this matter, we are left with two other classes of individuals defined in (I:2;3) of the U.S. Constitution, to wit: "free Persons" and "three-fifths of all other Persons."

[4.] The term "three-fifths of all other Persons" referred to the Black slave population and all other races other than "white" who could not have Common Law Citizenship of one of the several States of the Union, at the time the Constitution was adopted. (For an in-depth analysis of this fact, see the Dred Scott v. Sandford, 19 How. 393 (1856); U.S. v. Rhodes, 1 Abbott 39; Slaughter House Cases, 16 Wall. 74 (1873); Van Valkenburg v. Brown, 43 Cal. 43 (1872); U.S. v. Wong Kim Ark, 169 U.S. 649 (1898); and K. Tashiro v. Jordan, 201 Cal. 239 (1927); et al.).

[5.] The Thirteenth Amendment, officially and lawfully ratified in 1865, served only to abolish slavery within the corporate United States. No race other than the white race could claim Common Law Citizenship of one of the several States, which Citizenship was afforded the protection of the Constitutions. (This is discussed in depth in Dred Scott v. Sandford supra.).

[6.] This argument applies to the State of California is found in Article 2, Section 1 of the Original California Constitution (1849) which states in part: "Every WHITE male citizen of the United States, and every WHITE male citizen of Mexico..." [emphasis added]. Obviously, this provision

excluded all other races from being Common Law Citizens of California and from having the full protection of the State and Federal (National) Constitutions. This was the case even before the famous Dred Scott decision. It is most notable that the California Constitution was altered after the so-called 14th Amendment to delete all references to "white" male Citizens, and to day it refers only to "persons".

[7.] Following the decision in Dred Scott supra, Congress allegedly enacted and ratified the so-called 14th Amendment to the Constitution for the [u]nited States of America to afford "statutory citizenship" status to those who were deemed excluded from this Common Law status under the Supreme Court's interpretations of the Constitution. This event unfolds in detail in the case law surrounding the 13th and 14th Amendments, with a very significant difference, which is of great importance to the instant matter.

[8.] Such cases as the Slaughter House Cases supra; Twining v. New Jersey, 211 U.S. 78 (1908); K Tashiro v. Johnson supra; among many others, all declared that under the Law, "there is a clear distinction between a [C]itizen of a State and a citizen of the United States".

[9.] A famous French statesman, Fredrick Bastiat, noted in the early 1800's that if freedom were destroyed in America, it would result from the question of slavery and from the failure to equate all races and all humans as "equals". The Accused Common Law Citizen is not responsible for the errors of the past and elects not to dwell at length on the subject. However, the so-called 14th Amendment must now be discussed and, as abhorrent as it may sound, it is a matter of fact and law that this is the position (intentional or unintentional) which forms the basis of the law with which we live today.

[10.] In brief, because of the 13th Amendment, the U.S. Supreme Court decided that the Union of States known as the [u]nited States of America was founded by "white" people and for "white" people and only "white" people could enjoy the Rights, Privileges and Immunities afforded and protected by the Federal and State Constitutions. This fact is most eloquently set forth in Dred Scott v. Sanford supra, in stating that "...if a black nation were to adopt our Constitution verbatim, they

would have the absolute right to restrict the right of citizenship only to the black population if they chose to do so..."

[11.] To overcome the decision in Dred Scott supra, the so-called 14th Amendment to the Constitution for the [u]nited States of America was ratified "at the point of a bayonet", and was "declared" to be a part of the Constitution in the year 1868. However, an examination of the ratification by the several States shows numerous and various improper proceedings occurred which, in effect, nullify the Amendment. "I cannot believe that any court, in full possession of its faculties, could honestly hold that the amendment was properly approved and adopted." State v. Phillips, 540 P.2d. 936 (1975); see also Dytt v. Turner, 439 P.2d. 266 (1968) for historical details.

[12.] Accused Common Law Citizen Michael-Trent: Barnes will not digress into an in-depth dissertation of the bogus ratification of the so-called 14th Amendment, it is only necessary point out here that the so-called 14th Amendment had a profound effect upon the Union of these United States, and its effect continues to the present time.

[13.] The Original Constitution for the [u]nited States of America (1787) refers to Common Law [C]itizens of the several States in the Preamble, in Article IV, Section 2, Clause 1 and in numerous other sections. Always the word Citizen is spelled with an upper-case "C" when referring to this class of Common Law [C]itizen as a "[C]itizen of the United States", e.g., as [C]itizen of one of the United States". See People v. De La Guerra, 40 Cal. 311, 337 (1870).

[14.] In contrast, the so-called 14th Amendment utilizes a lower-case "c" to distinguish this class of [c]itizens whose status makes them "subject to the jurisdiction thereof" as a statutory "[c]itizen of the United States". Similarly, "Person" was spelled with an UPPER CASE "P" prior to the so-called 14th Amendment, as opposed to "person" with a lower-case "p" in Section 1 of the amendment itself.

[15.] In law, each word and each use of the word, including its capitalization, (especially capitalization) has a distinct legal meaning. In this case, there never was the specific status of a [c]itizen of the

United States" until the advent of the 1866 Civil Right Act (14 Stat. 27) which was the forerunner of the so-called 14th Amendment. (See Ex Parte Knowles, 5 Cal. 300 (1855). The definition of the "United States" is discussed in the section of this Memorandum.)

[16.] Before the so-called 14th Amendment was declared a part of the U.S. Constitution. There were a number of State "residents" who could not enjoy "Common Law [C]itizenship" in one of the several States under the Constitution, because they were not "white". The effect of the so-called 14th Amendment was to give to all those residents a [c]itizenship in the nation-state that was created by Congress in the year 1801 and named the "United States". (See 2 Stat. 103; see also U.S. v. Eliason, 41 U.S. 291, 16 Peter 291, 10 L. Ed. 968 (1842); U.S. v. Simms, 1 Cranch 255, 256 (1803).) The original Civil Rights Act of 1866 was not encompassing enough, so it was expanded in the year 1964; but the legal effect was the same, namely, to grant to "[c]itizens of the United States" the equivalent rights of the Common Law white [C]itizens of the several States. In reality, however, those "equivalent rights" are limited by various statutes, codes and regulations and can change at the whim of Congress. Unlike the unalienable Rights granted by our Creator!

[17.] Under the Federal and State Constitutions, "...We the People" did not surrender our individual sovereignty to either the State or Federal Powers "delegated" do not equate to powers surrendered. This Union of States is a Republic, not a democracy, (mob rule) and the majority can not impose its will upon the minority simply because of appearance of some "law" is set forth. Any individual can do anything he or she wishes to do, (freedom) so long as it does not damage, injure or impair the same Right of another individual. The concept of a corpus delicti is relevant here, in order to prove some "crime" or civil damage.

[18.] The case law surrounding the 13th and 14th Amendments all rings with the same message: "These amendments did not change the status of Common Law [C]itizenship of the white [C]itizens of one the several States of the Union" (now 50 in number).

[19.] This goes to the crux of the controversy because, under the 14th so-called Amendment, [c]itizenship is a privilege and not a "Right".

(See American and Ocean Ins. Co. v. Canter, 1 Pet. 511 (1828); Cook v. Tait, 265 U.S. 47 (1924).)

[20.] It was never the intent of the so-called 14th Amendment to change the status of the Common Law [C]itizens of the several States. (See People v. Washington, 36 C. 658, 661 (1869); French v. Barber, 181 U.S. 324 (1900); MacKenzie v. Hare, 60 L.Ed. 297). Intent is always decisive and conclusive on the courts.

[21.] However, over the years, the so-called 14th Amendment has been used to create a fiction and to destroy American Freedom through administrative regulation. How is this possible? The answer is self-evident to anyone who understands the law, namely, a "privilege" can be regulated to any degree, including the alteration and even the revocation of that privilege. Or by propaganda, programing, or mis-education.

[22.] Since the statutory status of "[c]itizen of the United States, subject to the jurisdiction thereof" (1866 Civil Rights Act) is one of privilege and not of Right, and since the so-called 14th Amendment mandates that both Congress and the several States take measures to protect these new "subjects", then both the Federal and State governments are mandated to protect the privileges and immunities of ONLY these "[c]itizens of the United States". (See Hale v. Henkle, 201 U.S. 43 (1906).)

[23.] Of course, the amount of protection afforded has a price to pay, but the important fact is that the "privilege" of citizenship under the so-called 14th Amendment can be regulated or revoked because it is a "privilege" and not a RIGHT. It is here that the basic, fundamental concept of "self-government" turns into a King "governing his subjects".

[24.] One can be called a "freeman", but that was a title of nobility, just like "Esquire" granted by a King. To be free "sovereign" encompasses a great deal more than grants of titles and privileges.

[25.] Over the years since 1787, because our forefathers would have rather fought than bow to involuntary servitude, the (evil forces) have slowly and carefully used the so-called 14th Amendment, mis-education, and the Social Security Act, the fictional bankruptcy, as primary acts



to usurp the Rights of the Common Law State [C]itizen, and to try to commit genocide upon the posterity, "We the People" by the use of assumption and presumption in the courts. Nevertheless, this class of Common Law [C]itizen is not extinct yet; we are simply being ignored, and persecuted in order to maintain and enlarge a revenue base for Congress.

[26.] Since the State of California has been mandated by the so-called 14th Amendment to protect the statutory "[c]itizens of the United States", and since the People in general have been falsely/fraudulently, misled to obtain "Social Security Numbers" as "U.S. citizens", the State of California, under prompting by the Federal government, has used the licensing and registration of vehicles and people under the "equal protection" clause for the "Public Welfare" to perpetuate a scheme of revenue enhancement and regulation. This scheme has been implemented, in part, by promoting the fiction that the "Common Law [C]itizens of a State of a Union of several States" can be regulated to the same degree as statutory "[c]itizens of the United States".

This allegation is now discussed by proving exactly what the "United States" means and in what capacity it now operates.

#### WHAT IS THE "UNITED STATES"?

[28.] As we begin, it must be noted that this Common Law State [C]itizen alleges "fraud" by the State and Federal Governments for failing to inform/disclose to the People that they are all included (through assumption presumption and use of fiction of law) to be in that statutory class of "persons" "res-idents" "[c]itizens of the United States".

[29.] The use of this fiction (lie) of law is particularly abhorrent in view of the fact that, when arbitrarily applied to everyone, every thing is degraded, the States lose their sovereignty, the Common Law [C]itizens of the States lose their fundamental un-a-lien-able Rights, the checks and balances of our Republic in Union, are discarded, and the "[c]itizens of the United States" lose the very guidelines, which established their "civil rights". The net effect is that these actions, lower everyone's status to that of a "subject/slave". Our Nation moves from born like the lamb (Yahshua true name of Jesus) to speak like the dragon (satan).

[30.] There is a clear distinction between the meaning of "United States" and "[u]nited States of America". The People of America have been fraudulently and purposely mislead to believe that these terms are synonymous in every context.

[31.] In fact, in Law the term "[u]nited States of America" refers to the several States which are "united by and under the Constitution"; the term "United States" refers to that geographical area defined in Article I, Section 8, Clause 17 (I:8:17) and in Article IV, Section 3, Clause 2 (IV:3:2) of the Federal Constitution.

[32.] In 1802, the "Congress Assembled" incorporated a geographical area known as the "United States". The "United States" is, therefore, a nation-state, which is separate and unique unto it. Furthermore, even though the "United States" is not a member of the "Union of States united by and under the Constitution", it is bound by that Constitution to restrict its activities in dealing with the several States and with the Common Law [C]itizens of those States. Under I:8:17 and IV:3:2 of the Constitution for the [u]nited States of America (1787), Congress has exclusive power to legislate and regulate the inhabitants of its geographical territory and its statutory "[c]itizens" under the so-called 14th Amendment, wherever they are "resident", even if they domicile in one of the 50 States of the Union.

[33.] The term "United States" has always referred to the "Congress Assembled", or those geographical areas defined in I:8:17 and IV:3:2 in the U.S. Constitution. The proof of this fact is found in the Articles of Confederation.

#### ARTICLES OF CONFEDERATION

"Whereas the Delegates of the [u]nited States of America in Congress Assembled did on the fifteenth day of November in the year of our Lord One Thousnd Seven Hundred and Seventy Seven, and in the Second Year of the Independence of America agree to certain Articles of Confederation and perpetual union between the States of..."

ARTICLE I. The title of this confederacy shall be "The [u]nited States of America".

ARTICLE II. Each State retains its soverty, freedom and independence,

and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States in Congress Assembled.

NOTE: The term "United States" as used therein refers expressly to "Congress Assembled" on behalf of the several States that comprise the Union of States (now 50 in number).

[34.] As can readily be seen from the below, with three separate and distinct definitions for the term "United States", it becomes necessary to separate and define each use of this term in law. It is equally as necessary to separate and define to whom the law applies when there are two [C] ±[c]itizenship(s) existing side-by-side, with separate and distinct Rights or privileges and immunities for each. The term "United States" may be used in any one of several senses. It may be merely the name of a sovereign occupying the position analogous to that of other sovereigns in a family of nations. It may designate territory over which sovereignty of the States extends, or it may be the collective general term of the States (50), which are united by and under the Constitution, or the for profit municipal corporation, which possesses no sovereignty. (See *Hooven & Allison Co. v. Evatt*, 324 U.S. 652 [1945] or the multitude, of other cases for definitions).

[35.] The term "United States", when used in its territorial meaning, encompasses the areas of land defined in I:8:17 and IV:3:2, nothing more. In this respect, the "United States" is a separate Nation that is foreign with respect to the States and myself the Common Law [C]itizen, united under the Constitution, because the "United States" as such has never applied for admission to the Union of States known as the "[u]nited States of America". Accordingly, statutory "[c]itizens of the United States", who are "subject to the jurisdiction thereof", are defined in the wording of the so-called 14th Amendment and of The Civil Rights Acts. At best, this so-called Amendment is a "private Act", rather than a public act, which designates a class of people who are unique to the territorial jurisdiction of the District of Columbia, the Federal Territories and Possessions, and the land which has been ceded by the Legislatures of the 50 States to the foreign nation-state of the "United States" for forts, magazines, arsenals, dock-yards and "other needful buildings" (See Articles I:8:17 and IV;3:2). Collectively, this territorial



jurisdiction is now termed "The Federal Zone" to distinguish it uniquely from the from every square inch of the nation as a whole and the 50 States of the Union. A fiction which has been attempted is that we become residents by use of Zip codes calling the post offices suburbs of the District of Columbia but the Supreme Court has ruled upon this recently on actions claiming commerce. In actuality the "nation" can be defined as the union of both the 50 States and the federal zones, for jurisdictional territories.

[36.] The District of Columbia is technically a corporation and is only defined as a "State" in its own codes and under International Law (to bring about confusion, to argument fraud) (See the multitude of definitions in your own codes such as IRC 7701(a)(10) and others; who are you fooling).

[37.] The several States that are united by and under the Constitution are guaranteed a "Republican" (or Rule of Law) the Constitution being the Supreme Law and it derives all its just power from the consent of the governed as long as it is consistent with the Holy Scriptures, is our form of government by Article IV Section 4 of the Constitution, our Public contract. However, the foreign nation-state created by Congress and called the "United States", in its territorial sense, is a "legislative Democracy" (or Mob, majority rule [demotoligachy]) which is governed by International Law, rather than the Common Law.

[38.] The U.S. Supreme Court has ruled that this foreign nation has every right to legislate for its "[c] itizens" and hold subject matter and in personam jurisdiction, both within (inside) and without (outside) its territorial boundaries, when legislative acts call for such effects (See Cook v. Tait supra, and others).

[39.] As a foreign nation under International law, which is derived from Roman Civil Law (See Kent's Commentaries on American Law, Lecture 1), unfortunately it is perfectly legal (not moral) for this foreign nation to consider its people as nothing more than "subjects/slaves" rather than individual sovereigns, like they were endowed by our Creator. The protections of the State and Federal Constitutions do not apply to these "subjects" unless there is specific statutory legislation granting specific protections (e.g. The Civil Rights Act). The guarantees of the Constitution

extend to the "United States" (e.g. the federal zone) only as Congress has made those guarantees applicable (See Hooven supra).

[40.] California is a Republic. So are all the other 49 States. How does this International Law come into play in one of the Republics? The answer to this Question is presented in the following section.

#### FAILURE TO DISCLOSE DOLUS DANS LOCUM CONTRACTUI

[41.] Because only "white" people could hold primary Common Law State [C]itizenship under the Constitution, Congress created a different class of [c]itizen and then legislated rights, privileges and immunities enjoyed by the Common Law [C]itizens of the several States of the Union.

[42.] Unfortunately, the nation-state of the "United States" (District of Columbia) is a "Democracy" (See what the founding father thought about that form of government) and not a "Republic". It is governed under authority of International Law (Roman), rather than the Common Law (based on Scriptural Law) and its people hold a [c]itizenship by "privilege" rather than by "Right".

[43.] Certain power-mad (quislings of satan) individuals, commonly known, today as Directors of the Federal Reserve Board representatives for the twelve (12) major international banking families, have used the so-called 14th Amendment to try to commit "legal genocide" upon the class of the Common Law [C]itizens, known as [C]itizens of the several States. The non-disclosed attachments, which has been accomplished by mis-informing the general public that they must apply for, "Social Security" to work, liecense to "Drive" to travel, amounts to fraud, deception and non-disclosure of material facts. Specific, with the intent to trade our most valuable property for a hand full of beans, remember that "Dolus circuitu non purgatur" and that the intentional use of fraud shall not benefit those puppet master, "Dolus et fraus nemini patrocinentur", in order to gather re-venue for the profit (private) international banks and their owners, have not they stolen enough from us already.

[44.] It is a fact so well known and understood that it is indisputable,

that "any privilege granted by government is regulated, taxable and subject to any restrictions imposed by the legislative acts as its governing body", including alteration and even revocation by that governing body.

[45.] If necessary to do so, the Accused Michael-Trent: Barnes, will submit an offer of proof to show that the "Social Security Act" is, in fact, a private act applying only to the territory of the "United States", acting in its limited municipal capacity, and to its statutory "[c]itizens of the United States", under the so-called 14th Amendment. Yet, this Act has been fraudulently advertised and promoted throughout the several States of the Union as being "mandatory upon the public in general", rather than a "private" act of a foreign government or corporation.

[46.] The devastating effects of this fraud "Dolus malus" in law is that, when Common Law [C]itizens of the several States are enticed, coerced, into application for and receive Social Security Numbers, they unwittingly and voluntarily surrender their primary Common Law [C]itizenship of a State and exchange it for statutory "[c]itizenship of the United States", under the 14th Amendment. (this amounts to a reduction of King to slave) The long-term effect of this fraud, procedure is that the foundation of the Republic as the Common Law white State [C]itizens are an endangered species, on the verge of extinction, "genocide" and only "subject/slave class [c]itizens" will survive to be ruled by the whim of their masters. By using assumptions/presumptions to enforce a jurisdiction that was not intended by our Founding Fathers or the Framers of the original U.S. Constitution, and our Declaration of Independence, I for one say give me liberty or death, for I cannot serve both YHWH and satan.

#### JURISDICTION OF THE COURT

[47.] Section 1 of the so-called 14th Amendment has had a far-reaching effect upon the several States of this Union, because Congress mandated that would protect its new statutory "[c]itizens" and that each of the States would guarantee to protect these special statutory "[c]itizens".

[48.] This nation was founded upon the fundamental principles of the Common Law and self-government, with limited actual government. In contrast, the "subjects" of the "United States" are considered incapable of self-government and in need of protection and regulation by those in authority.

[49.] The majority of statute law is civil and regulatory in nature, even when sanctions of a criminal nature are attached for alleged violations.

[50.] Among the Rights secured by the Common Law in the Constitution in "criminal" cases are the right to know the "nature and cause" of an accusation, the right to confront an accuser, and the right to have both substantive and procedural due process.

[51.] It is a fact that the District Court, Does Not disclose the nature and cause of the accusation, do not afford "substantive" due process, and rarely produces a "corpus delicti" to prove damage or an injured party.

[52.] The final proof is that the rights given to an accused are "civil rights", rather than Constitutional Rights. The District Court can hear a Constitutional question, but it cannot rule upon the merits of the question, because the Constitution does not apply to regulatory statutes. They are set in place to regulate and protect the statutory "[c]itizens of the United States" who cannot exercise, and are not given, the right of individual self-government.

[53.] The Federal Constitution mandates that "counsel" be present at all phases of the proceedings. In contrast, District Court often conducts business, and arraignment proceedings without either counsel for the defense or counsel for the prosecution being present.

#### CONCLUSION

[54.] This Court is/was proceeding under a jurisdiction which is known to the Constitution, but which is foreign to the intent of the Constitution, unless applied to those individuals who do not have Common Law access by "Right" to the protection of State and Federal Constitutions.

[55.] Whether this jurisdiction is named International Law, Admiralty/ Maritime Law, Legislative Equity, Statutory Law or Administrative process, or any other name, it is abusive and destructive of the Common Law Rights of the [C]itizens of the several States. The Constitutions of the Republic and the [u]nited States of America mandated that these rights be guaranteed and protected by all agencies of government. This is thw Supreme Law of our Land.

[56.] The limit of police power and legislative authority is reached when statutory "law" derogates or destroys Rights which are protected by the Constitution and which belong to the Common Law [C]itizens of the several States who can claim these Rights.

[57.] Michael-Trent: Barnes is a white male Common Law [C]itizen of the Sovereign California Republic, with not miscegenation within my family tree, my families descent is from before the Declaration of Independence My declaration of status is made openly and notoriously on the record of these proceedings.

[58.] As an individual whose primary Common Law Citizenship is of the California Republic, Michael-Trent: Barnes, claims all Rights, Privileges and Immunities afforded and protected by the Constitutions of the California Republic (1849) and of the [u]nited States of America (1787), as lawfully amended.

[59.] Michael-Trent: Barnes, has never, to the best of his knowlédge and belief, knowingly, intentionally, and voluntarily surrendered his original status as a Common Law [C]itizen of the several States, to become a so-called 14th Amendment Federal [c]itizen who is subject to the jurisdiction of the "United States".

[60.] This Court is proceeding in a legislative jurisdiction which allows "civil" statute to be used as evidence of the Law in a "criminal proceeding", and affords only "civil rights", "procedural due process" and the right to be heard on the facts evidenced in the statute, rather than the Law and the facts.

[61.] It is now incumbent upon the Court to seat on the Law side of its jurisdiction and to order the plaintiff to bring forth an offer of proof that the Accused Michael-Trent: Barnes, can be subject to a jurisdiction which uses civil statutes as evidence of the fundamental Law in criminal cases, which refuses to afford all Rights guaranteed by the Constitution and available to the Accused in criminal matters, and which practices procedural due process to the exclusion of substantive due process, wherein only the "facts" and not the "facts and Law" are at issue.



[62.] Should the prosecution fail to bring forth proof that the Accused Michael-Trent: Barnes has knowingly and willfully surrendered his original status as a Common Law "California State [C]itizen" for one that is nothing more than essentially in "legislative/regulatory equity", then this court has no alternative but to dismiss this matter ab initio, of its own motion in the interests of justice, for lack of jurisdiction.

Dated: January 10th, 2007 C.E.

Respectfully Submitted

/s/ Michael-Trent: Barnes

Michael-Trent: Barnes, Sui Juris

[C]itizen of the California Republic, In Propria Persona

#### Conclusion

For the foregoing reasons, the Accused's conviction must be reversed, with declaration that the Accused is a de jure California State [C]itizen, and a member of the Posterity, as defined in the Preamble to the Constitution for the [u]nited States of America.

/s/ Michael-Trent: Barnes

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